

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
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In the Matter of)
)
Inquiry Concerning Deployment of)
Advanced Telecommunications)
Capability to All Americans in a Reasonable)
And Timely Fashion, and Possible Steps)
To Accelerate Such Deployment Pursuant)
To Section 706 of the Telecommunications)
Act of 1996)

CC Docket No. 98-146

**REPLY COMMENTS OF THE PERSONAL
COMMUNICATIONS INDUSTRY ASSOCIATION**

The Personal Communications Industry Association ("PCIA"),¹ by its attorneys, hereby submits its reply comments with respect to the Commission's Notice of Inquiry in the above-captioned proceeding.² The *NOI* represents the Commission's second effort to assess "whether advanced telecommunications capability is being deployed to all

¹ PCIA is an international trade association established to represent the interests of the commercial and private mobile radio service communications industries and the fixed broadband wireless industry. PCIA's Federation of Councils includes: the Paging and Messaging Alliance, the PCS Alliance, the Site Owners and Managers Association, the Private Systems Users Alliance, the Mobile Wireless Communications Alliance, and the Wireless Broadband Alliance. As an FCC-appointed frequency coordinator for the Industrial/Business Pool frequencies below 512 MHz, the 800 MHz and 900 MHz Business Pools, the 800 MHz General Category frequencies for Business Eligibles and conventional SMR systems, and the 929 MHz paging frequencies, PCIA represents and serves the interests of tens of thousands of FCC licensees.

² FCC 00-57 (rel. Feb. 18, 2000) ("*NOI*"). Opening comments were filed on March 20, 2000.

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Americans in a reasonable and timely fashion.”³ As part of this inquiry, the Commission seeks comment on actions that will accelerate such deployment.⁴ As detailed below, the Commission should: 1) ensure that processing of equipment authorization applications necessary for fixed broadband wireless operations and related approvals proceeds smoothly and expeditiously; 2) promptly process routine applications; 3) launch a comprehensive forbearance proceeding addressing fixed broadband wireless; and 4) ensure that fixed broadband wireless operators do not face undue delays in deployment due to impermissible third-party impediments.

I. The Commission Must Streamline Its Equipment Authorization Processes as Well as Continue To Process Routine Applications on a Prompt Basis

Fixed broadband wireless, which has been repeatedly recognized as a significant source of advanced telecommunications capacity, is at a critical stage of development and deployment. Equipment is being developed, tested, and deployed in the field. Similarly, licensees and service providers are repositioning themselves to enhance their competitiveness in the market and their operational efficiencies. Business plans are being established and implemented. Any unnecessary delays could adversely affect the deployment of these services and the associated advanced telecommunications capacity.

PCIA accordingly urges the Commission to take all steps necessary to ensure that its regulatory review and approval processes do not interpose any delay in the

³ *Id.*, ¶ 1, citing § 706, Pub. L. 104-104, Title VII, Feb. 8, 1996, 110 Stat. 153.

⁴ *NOI*, ¶ 7.

rollout of broadband wireless equipment and services leading to the offering of a competitive choice in advanced telecommunications services to all segments of the public. In that vein, the Commission asked in the *NOI* whether there are ways it “can streamline technical registration of xDSL terminal equipment.”⁵ In response, Nortel Networks Corporation (“Nortel”) pointed out that “[o]ne bottleneck that has arisen with regard to the rapid deployment of advanced telecommunications services has been the delays in equipment certification for the customer premises equipment (“CPE”) used to provide these services.”⁶ Because the current Part 68 technical requirements do not yet take into account the new services, a manufacturer must go through a time-consuming waiver process.⁷ Nortel accordingly “urges the Commission to take additional, interim steps to speed the equipment registration process, at least until Part 68 is updated and broader equipment registration streamlining is in place.”⁸

PCIA endorses Nortel’s request that the Commission seek ways to streamline its equipment review processes, not only in the areas cited by Nortel but in all aspects potentially affecting the ability of broadband wireless carriers to deploy their services to the public. Unnecessary and unwarranted delays in bringing equipment to the

⁵ *Id.*, ¶ 48.

⁶ Comments of Nortel Networks Corporation, CC Dkt. No. 98-146, at 6 (filed Mar. 20, 2000) (“Nortel Comments”).

⁷ *Id.* The Commission has recently sought to streamline this waiver process as it relates to equipment used for a particular type of services in order to expedite the equipment authorization process. *Id.*, 6-7, citing *Alcatel USA, Inc.*, DA 00-388 (rel. Feb. 28, 2000). Nonetheless, unnecessary delays still remain in the current FCC approval procedures.

⁸ *Id.*, 7.

marketplace at this critical time can impede competition in advanced telecommunications offerings and delay access to these important services. While PCIA recognizes the need to review new equipment compliance with various technical requirements, the Commission should ensure that its rules and policies take into account the current technologies available. Moreover, the filing and comment procedures as well as the time spent reviewing and processing the forms should be streamlined to the greatest extent possible. Such action will aid immeasurably in facilitating the timely deployment of advanced telecommunications capacity to the public on a competitive basis.

In the same vein, the Commission must ensure that processing of other routine applications—such as many transfer and assignment applications—proceeds on a timely basis. The Commission recently announced that it had reduced by 99 percent the number of items pending in the Wireless Telecommunications Bureau for a year or more.⁹ The Commission further indicated that, “since October 1, 1999, 92% of all applications and matters processed by the bureau, except for backlog cases, have been processed within 90 days or less of filing.”¹⁰ In a reassuring statement, the Chief of the Wireless Telecommunications Bureau stated that the quick processing time of current matters would continue to improve.¹¹ While PCIA is encouraged by these statements, the association wishes to underscore the importance of the Commission’s

⁹ FCC News, *Wireless Bureau Chief Declares Bureau's Backlog Reduction Program a Success; 99% of Backlog Eliminated* (rel. Mar. 17, 2000).

¹⁰ *Id.*; see also *id.*, attachment at 7.

¹¹ *Id.*; *id.*, attachment at 7.

efforts to process routine applications as quickly as possible. Unnecessary delays in review and grant of, for example, routine and unopposed transfer of control or assignment applications could delay the ability of fixed broadband wireless carriers to implement their business plans and deploy their networks on an efficient and competitive basis. Continued success in the timing of regulatory oversight where required by the Commission's rules will enhance the increasing availability of advanced telecommunications capability over fixed broadband wireless networks.

II. The Commission Should Launch a Comprehensive Forbearance Proceeding Addressing the Fixed Broadband Wireless Marketplace

The *NOI* recognizes that Section 706 contemplates the possible use of forbearance to facilitate the deployment of advanced telecommunications capability.¹² In several recent proceedings, the Commission has questioned whether forbearance from regulatory requirements imposed on fixed broadband wireless carriers and their operations would facilitate the timely deployment of advanced telecommunications capacity and otherwise benefit the public.¹³ Rather than address these issues on a piecemeal basis, the public interest would be better served by a comprehensive review of the broadband wireless requirements in order to eliminate unnecessary statutory and

¹² *NOI*, ¶ 42.

¹³ *E.g.*, *Amendments to Parts 1, 2 and 101 of the Commission's Rules To License Fixed Services at 24 GHz*, WT Dkt. No. 99-327, FCC 99-333, at ¶ 35 (rel. Nov. 10, 1999); *Amendment of Part 101 of the Commission's Rules To Streamline Processing of Microwave Applications in the Wireless Telecommunications Services*, WT Dkt. No. 00-19, FCC 00-33, ¶¶ 6, 83-84 (rel. Feb. 14, 2000) (Memorandum Opinion and Order and Notice of Proposed Rulemaking).

regulatory obligations that do not further the public interest and otherwise are not needed.

In recent years, as the Commission has adopted or modified the rules applicable to various broadband wireless services, it has not pursued a course of excessive regulatory intrusion. While the regulatory requirements imposed on members of this marketplace segment have been somewhat limited, the rapidly changing nature of the telecommunications world warrants a complete, top-to-bottom review of the rules applicable under different parts of the Commission's Rules to a host of fixed broadband wireless licensees.

In PCIA's view, there are a number of regulatory requirements that could be eliminated—either directly or through forbearance—consistent with the standards enunciated in Section 10 of the Communications Act.¹⁴ At a minimum, the Commission should act as suggested by the Wireless Communications Association International, Inc. ("WCA") "to forbear from imposing on fixed wireless telecommunications carriers

¹⁴ See 47 U.S.C. § 160, which *requires* forbearance if the Commission makes the following determination:

- (1) enforcement of such regulation or provision is not necessary to ensure that the charges, practices, classifications, or regulations by, for, or in connection with that telecommunications carrier or telecommunications service are just and reasonable and are not unjustly or unreasonably discriminatory;
- (2) enforcement of such regulation or provision is not necessary for the protection of consumers; and
- (3) forbearance from applying such provision or regulation is consistent with the public interest.

Id.

those Title II provisions that it already forbears from applying to CMRS licensees....¹⁵

The FCC should carefully rethink the relevance of imposing regulations initially adopted in the context of landline monopoly conditions on fixed broadband wireless providers who, at present, have virtually no market share.

Examining these requirements in a single proceeding and on a thorough basis will help to ensure that competitors are placed on comparable footing and are subject to no more regulation than is necessary to further the public interest. PCIA would be happy to work with the Commission staff to identify a target list of regulations suitable for forbearance, although the Commission may just want to initiate a proceeding that generally asks which regulations should be eliminated or subject to forbearance.

Congress and the Commission have recognized the significant public interest harms in retaining unnecessary regulations. Such requirements can drive up costs that must somehow be recouped from customers and impede the ability of operators effectively to meet the needs of a full range of the public. In light of the value placed by both bodies on the timely deployment of advanced telecommunications capacity, undertaking a fixed broadband wireless forbearance proceeding can only be expected to have numerous benefits.

¹⁵ Comments of the Wireless Communications Association International, Inc., CC Dkt. No. 98-146, at 24 (filed Mar. 20, 2000) ("WCAI Comments").

III. PCIA Reiterates the Importance of Fixed Broadband Wireless Operators Having Access To Necessary Facilities, Including Buildings, in Order Successfully To Deploy Their Networks and Rollout Services to the Public

In comments filed in response to the Commission's first Notice of Inquiry regarding the status of advanced telecommunications capability deployment,¹⁶ PCIA suggested a number of actions the Commission should take to help remove barriers to the deployment of widespread advanced wireless telecommunications capability and services.¹⁷ The Wireless Communications Association International, Inc. ("WCAI") echoed those same sentiments in its opening comments in response to the subject NOI.¹⁸ WCAI urged the Commission to take steps to ensure that fixed wireless broadband providers are accorded protection from third-party entry barriers.¹⁹ Some of these issues are currently pending before the Commission in WT Docket No. 99-217.²⁰

PCIA understands that the Commission currently is planning to act in WT Docket No. 99-217 in the near future. As PCIA indicated in its comments in that docket, the Commission's action therein can be significant in helping to ensure that fixed

¹⁶ *Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, and Possible Steps To Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996*, CC Dkt. No. 98-146, FCC 98-187 (rel. Aug. 7, 1998) (Notice of Inquiry).

¹⁷ See Comments of the Personal Communications Industry Association, CC Dkt. No. 98-146 (filed Sept. 14, 1998); Reply Comments of the Personal Communications Industry Association, CC Dkt. No. 98-146 (filed Oct. 8, 1998).

¹⁸ See WCAI Comments at 26-36.

¹⁹ See *id.*, iii, 26-38.

²⁰ *Promotion of Competitive Networks in Local Telecommunications Markets*, WT Dkt. No. 99-217, CC Dkt. No. 96-98, FCC 99-141 (rel. July 7, 1999) (Notice of Proposed Rulemaking and Notice of Inquiry).

broadband wireless operators can deploy their facilities and expand the availability of advanced telecommunications capacity in multi-tenant environments (“MTEs”). To achieve that latter goal and to increase the level of competitiveness in telecommunications markets, PCIA renews its request that the Commission adopt seven guiding principles in WT Docket No. 99-217:

1. Provide comparable access on and within MTE buildings so that wireless service providers can offer their services to MTE building tenants;
2. Ensure that service providers pay reasonable, market-based compensation to MTE building owners for building access;
3. Prohibit telecommunications carriers from entering into exclusive building access or service arrangements with MTE owners;
4. Ensure that wireless providers pay the costs of installing and maintaining facilities on or within MTE buildings;
5. Ensure that tenants are not penalized for exercising their right to choose among service providers;
6. Apply these principles to both commercial and residential MTE buildings so that residential and business customers have true freedom of choice among carriers.
7. Recognize that access obligations must take into consideration the space limitations that may exist in a particular building.

Adopting policies consistent with these principles will ensure that third-parties cannot unreasonably block deployment of important wireless broadband services, which in turn will insure public benefit.

IV. Conclusion

Advanced telecommunications capability is being deployed throughout the United States by a range of fixed broadband wireless operators. The Commission can ensure that such deployment continues and competitive alternatives are made available

to the public on a timely basis by taking action to: 1) promptly process equipment approvals and routine applications related to fixed broadband wireless operations; 2) initiate a comprehensive fixed broadband wireless forbearance proceeding; and 3) act in WT Docket No. 99-217 to enunciate policies consistent with PCIA's seven principles for building access.

Respectfully submitted,

**PERSONAL COMMUNICATIONS
INDUSTRY ASSOCIATION**

By: 
Robert L. Hoggarth
Brent H. Weingardt
Personal Communications Industry Association
500 Montgomery Street, Suite 700
Alexandria, Virginia 22314-2561
703/739-0300

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